



**THE ATTORNEY GENERAL
OF TEXAS**

**RAWFORD C. MARTIN
ATTORNEY GENERAL**

AUSTIN, TEXAS 78711

April 27, 1970

**Honorable Charles A. Allen
Criminal District Attorney
Harrison County
P. O. Box 776
Marshall, Texas 75670**

Opinion No. M-620

**Re: Questions relating to pay
of court reporter for
transcribing testimony
taken before an examining
court.**

Dear Mr. Allen:

**Your request for an opinion asks the following
questions:**

**"Is a Court Reporter entitled to com-
pensation for transcribing testimony taken
before an examining court?"**

**"Assuming that the answer to the above
question is 'yes', is the County obligated
to pay the Court Reporter fees and, if so,
out of what fund is the fee payable?"**

**Article 16.09 of the Code of Criminal Procedure (ap-
plicable to an examining trial) provides:**

**"The testimony of each witness shall be
reduced to writing by or under the direction
of the magistrate, and shall then be read
over to the witness, or he may read it over
himself. Such corrections shall be made in
the same as the witness may direct; and he
shall then sign the same by affixing thereto
his name or mark. All the testimony thus
taken shall be certified to by the magistrate.
In lieu of the above provision, a statement
of facts authenticated by State and defense
counsel and approved by the presiding magis-
trate may be used to preserve the testimony
of witnesses."**

**In Attorney General's Opinion M-248 (1968), we
held that an official court reporter is entitled to reasonable**

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compensation for his services rendered in taking and transcribing the testimony of witnesses in an examining trial proceeding under Article 16.09, V.C.C.P.

Likewise, we held in Attorney General's Opinion M-303 (1968):

"A Justice of the Peace, sitting as a Magistrate, has the authority and mandatory duty to require examining trial proceedings to be reduced to writing, certified, and delivered to the proper court. When a reporter is officially appointed by the Magistrate, he must be paid a reasonable compensation for his services in preparing an original Statement of Facts for the Court even though the reporter was first retained and paid by defense counsel. Anyone interfering with this judicial proceeding may be held in criminal contempt of court."

Furthermore, we held in Attorney General's Opinion M-248, supra, with reference to the payment of the compensation of the court reporter:

". . . any expense by the prosecuting attorney which is necessary and reasonable may be certified by him as provided in Article 3899(b), Vernon's Civil Statutes, and should be paid under Article 40.09, paragraph 5, and Attorney General Opinion C-683 (1966). It is the duty of the Commissioner's Court to abide by that determination and make payment from the general funds of the county."

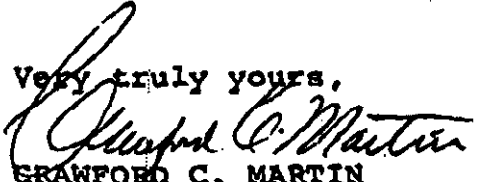
In view of the foregoing you are advised that a court reporter is entitled to reasonable compensation for transcribing testimony taken before an examining court and that such compensation is to be paid by the county out of the general fund.

S U M M A R Y

A court reporter is entitled to reasonable compensation for transcribing testimony taken before an examining court under the provisions

of Article 16.09, V.C.C.P., and such compensation is to be paid by the county out of the general fund.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
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